

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

ONO'S TRADING COMPANY, LLC;)
VAN KOPPERSMITH; DON GRADY;)
KELLY GRADY; DAVID PATRICK)
KELLEY; and JOE D. DUNNAM,)
)
Plaintiffs,)
)
vs.) CIVIL ACTION NO. 04-0706-CG-C
)
STUART A. PARNELL; PATTI M.)
PARNELL; THE NAUTICAL GROUP,)
LLC; PMP, LLC d/b/a THE NAUTICAL)
GROUP; and SLT, LLC d/b/a THE)
NAUTICAL GROUP,)
)
Defendants.)

STIPULATED ORDER

This cause is before the Court on the remaining claims in this case set out in the Fourth Amended Complaint at Counts Two, Five, Seven, Nine and Ten. Counsel for all parties appeared before the Court at a status conference on Monday, December 18, 2006 to inform the Court of the status of these remaining claims. Also present were Van Koppersmith and Stuart Parnell.

Counsel for Plaintiffs and counsel for Defendants Stuart Parnell, Patti Parnell, the Nautical Group, LLC, and PMP, LLC d/b/a the Nautical Group informed the Court at that time that those parties had reached a resolution of the remaining claims outlined above. Those parties informed the Court on the record that their agreement as to the resolution of those remaining claims is as follows:

- **COUNT TWO** (Alabama Unfair Competition) – The parties agree that this claim may be dismissed, without prejudice, with neither party to bear any costs or fees in relation to that individual count since the issue of costs and fees in relation

to the entire case are determined as part of this Order.

- **COUNT FIVE** (Conversion) – The parties agree to the entry of a consent judgment in favor of the Plaintiffs and against Stuart Parnell as to Count Five of the Fourth Amended Complaint in the amount of ONE HUNDRED THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$135,000.00).
- **COUNT SEVEN** (Fraud) – The parties agree to the entry of a consent judgment in favor of the Plaintiffs and against Stuart Parnell as to Count Seven of the Fourth Amended Complaint in the amount of ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$135,000.00).
- **COUNT NINE** (Intentional Interference with Business Relations/Fraud) – The parties agree to the entry of a consent judgment in favor of the Plaintiffs and against Stuart Parnell as to Count Nine of the Fourth Amended Complaint in the amount of ONE HUNDRED THIRTY-FIVE AND NO/100 DOLLARS (\$135,000.00).
- **COUNT TEN** (Civil Conspiracy) – The parties agree to the entry of a judgment in favor of the Plaintiffs and against Defendants Stuart Parnell, Patti Parnell, the Nautical Group, LLC, and PMP, LLC d/b/a the Nautical Group as to Count Ten of the Fourth Amended Complaint for civil conspiracy in conjunction with the relief previously awarded to the Plaintiffs against these Defendants in Counts One (Unfair Competition – Lanham Act) and Six (Misappropriation of Trade Secrets) of the Fourth Amended Complaint

Defendant Patti Parnell filed a Rule 59 Motion requesting clarification regarding the Court's memorandum opinion and order granting summary judgment in favor of the Plaintiffs as to Counts Three, Four, Six and Eight of the Fourth Amended Complaint. Counsel for Defendant Patti Parnell stated on the record at the status conference held on Monday, December 18, 2006 that the Rule 59 Motion of Patti Parnell is now withdrawn. Therefore, the Court notes the withdrawal of the Rule 59 Motion of Patti Parnell (Doc. 249).

Also, before the Court is the Plaintiffs' Bill of Costs and Attorney Fee Submission (Doc.

263) seeking attorney's fees and costs in this case based on the relief previously granted. More specifically, the Court granted summary judgment in favor of the Plaintiffs as to Count One (see Docs. 201 and 243) and Count Seven (Doc. 251) and determined that Plaintiffs were entitled to an award of attorney's fees and costs. Plaintiffs' Bill of Costs and Attorney Fee Submission (Doc. 263) provides an itemization of the specific fees and costs necessarily incurred by the Plaintiffs in this case and provides a total amount of those attorney's fees and costs of \$117,088.41. The parties, through their counsel, acknowledged their agreement to the award of these fees and costs at the status conference held in this case on December 18, 2006; therefore, the Court will award additional attorney's fees and costs in the amount of \$117,088.41 to the Plaintiffs and against Defendant Stuart Parnell, Patti Parnell, the Nautical Group, LLC, and PMP, LLC d/b/a the Nautical Group. In addition, the Court has previously entered an Order (Doc. 117) awarding Plaintiffs \$18,376.93 in attorney's fees and costs in this case. Therefore, the Court orders that Plaintiffs are awarded a total amount of attorney's fees and costs in this case of \$135,465.34.

As to Defendant SLT, LLC, the Court previously ordered the entry of default against that Defendant (Docs. 168 and 169) so that judgment will be entered against Defendant SLT, LLC and in favor of the Plaintiffs and the orders granting permanent injunctive relief in favor of Plaintiffs shall apply equally to Defendant SLT, LLC as to all other Defendants.

The Court has previously entered permanent injunctive relief requiring the assignment by Defendants to Ono's Trading Company, LLC of U.S. Patent 7,093,935 and U.S. Patent Applications 11/480,794 and 10/931,330. The parties requested additional injunctive language requiring the United States Patent and Trademark Office, and any other applicable regulatory authority, to take all steps necessary to effect defendants' assignment of patent rights to Ono's

Trading Company. However, plaintiff has now agreed to forgo their request since the United States Patent and Trademark Office is not a party to this case.

CONCLUSION

Based on the foregoing, the Court hereby orders that Count Two of the Fourth Amended Complaint is hereby **DISMISSED**, without prejudice, and no party shall bear any costs or fees in relation to the dismissal of that claim since attorney's fees and costs are addressed separately. Judgment will be entered in favor of the Plaintiffs as outlined herein. The Court further notes the withdrawal of the Rule 59 Motion of Patti Parnell. By separate document, the Court will enter a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DONE and **ORDERED** this 4th day of January, 2007.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE